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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

MUNICIPAL AIRPORTS - continued:

2. Compliance Requirements - continued:

- The money in the reserve fund must be spent within a 10-year period. (Section 67-10-402(4), MCA)
- The reserve fund may not exceed at any time a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways, and ramps. (Section 67-10-402(5), MCA)

Suggested Audit Procedures:

- If a reserve fund was established during the audit period, determine that the requirements described above relating to approval, purposes of the fund, and the required engineering estimate were adhered to.
- Test selected expenditures of the reserve fund to determine that they are for projects authorized by law, as specified above. If there are on-going projects, determine if any have exceeded the 10-year period allowed by law.
- Determine that the reserve fund does not exceed a competent engineering estimate of the cost of resurfacing or overlaying the existing runways, taxiways, and ramps.

3. Compliance Requirement:

- The money in a reserve fund may be invested in interest-bearing deposits in a state or national bank insured by the FDIC or obligations of the United States, either short-term or long-term. Interest on the investments must be credited to the operations and maintenance budget of the airport. (Section 67-10-402(5), MCA)

Suggested Audit Procedures:

- If the reserve fund moneys were invested, determine that the investments were as described above.
- Determine that any interest earnings were credited to the airport operating fund, and that no interest earnings were credited to the reserve fund.

4. Compliance Requirement:

- The revenues obtained from the ownership and operation of an airport must be deposited to the airport fund or joint airport fund, as appropriate. (Sections 67-10-404 and 67-10-206, MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

MUNICIPAL AIRPORTS - continued:

Suggested Audit Procedure:

- Test selected receipts and determine that money received from the operation of the airport was deposited to the airport fund or joint airport fund.

LIBRARIES:

1. Compliance Requirement:

- All library claims and payroll expenditures must be approved by the board of library trustees. (Section 22-1-304(4), MCA)

Suggested Audit Procedure:

- As part of expenditure testing, determine that library expenditures were approved by the board of library trustees.

2. Compliance Requirements:

- Subject to the provisions of Section 15-10-420, MCA, the governing body which has established a public library may levy a tax to maintain adequate library services. (Section 22-1-304(1), MCA)
- The governing body may by resolution submit the question of imposing a tax levy (new, increased, or in excess of the mill levy limit in 15-10-420) to a vote of the qualified electors at an election as provided in Section 15-10-425, MCA. The resolution must be adopted at least 75 days prior to the election at which the question will be voted on. (Section 22-1-304(2), MCA)

(NOTE: A.G.O. Number 91, Volume 41, held that the board of county commissioners may not modify the decision of library trustees concerning wage and salary amounts for library employees, may not modify an annual library budget adopted by library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the library trustees. Although the opinion related to a county, the same statutes apply to cities and towns, and it appears that the holding would also apply to those types of entities. See also A.G.O. Number 3, Volume 48)

- The proceeds from the tax levy must be deposited to a separate public library fund (BARS Fund No. 2220). (Section 22-1-304(3), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

LIBRARIES - continued:

Suggested Audit Procedure:

- Determine that the tax levy for the library was within the limits noted above, unless approval was obtained from the voters for a higher levy.
- Determine that any proceeds from the tax levy for the library were deposited to a separate library fund.

3. Compliance Requirements:

- The governing body of the city or town may establish a library depreciation reserve fund (a capital projects fund-type) to be used for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve the city, town, or city-county library services. (Section 22-1-305, MCA)
- Moneys for the library depreciation reserve fund are those funds which have been allocated to the library in any year but which have not been expended by the end of the year. Such moneys include but are not limited to city or city-county appropriations, federal revenue sharing funds, and public and private grants. (Section 22-1-306, MCA)
- The moneys held in the library depreciation reserve fund may be invested as provided by law. All interest earned on the fund must be credited to the library depreciation reserve fund. (Section 22-1-307, MCA)

Suggested Audit Procedure:

- Test selected expenditures from the library depreciation reserve fund and determine that they were used for the purposes specified above.
- Review revenues to the fund and determine that they were from only the sources as described above.
- Determine that any interest earned from the investment of moneys held in the library depreciation reserve fund are credited back to that fund.

4. Compliance Requirement:

- Library trustees will serve without compensation, except for actual and necessary expenses incurred in the performance of their official duties. (Sections 22-1-308(3) and 22-1-317(3), MCA)

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

LIBRARIES - continued:

Suggested Audit Procedure:

- As part of expenditure testing, determine that payments to library trustees were only for actual and necessary expenses incurred in performing their duties.

5. Compliance Requirement:

- The library board must prepare an annual report to the governing body of the city or town regarding the condition and operation of the library, including a financial statement. The trustees shall also submit an annual report to the State Library. (Section 22-1-309(7), MCA)

Suggested Audit Procedure:

- Determine that the required annual report was submitted to the governing body of the local government and to the State Library.
- Verify that the amounts reported in the annual reports to the governing body, the State Library, and the Department of Administration (City's annual financial report) were the same, and agreed to the accounting records maintained by the library.

6. Compliance Requirement:

- The library may accept gifts, grants, donations, devises, or bequests. These must be maintained separately from regular library funds. (Section 22-1-309(8), MCA)

Suggested Audit Procedure:

- Determine that funds received from gifts, grants, donations, devises, or bequests are maintained in a fund or funds separate from regular library funds.

CITY AND MUNICIPAL COURTS:

(Note: A city court is established in each city or town, with jurisdiction as described in Title 3, Chapter 11, Part 1. A municipal court may be established in a city with a population of 4,000 or more if the governing body elects to do so by two-thirds majority vote. The jurisdiction of municipal courts is described in Title 3, Chapter 6, Part 1.)

1. Compliance Requirements:

- City or municipal courts must maintain at least the minimum records required by State statutes. (Sections 3-11-206 and 3-6-302, MCA)
- The records of the court must be kept by the clerk, if there is one for that court.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CITY AND MUNICIPAL COURTS - continued:

(Note: Municipal courts must have a clerk of the court (Section 3-6-301, MCA) while in city courts the governing body may provide a clerk of city court (Section 3-11-206(1)(b), MCA).) The records in civil causes must conform as nearly as possible to the records of district courts. In criminal causes, in cases arising under city ordinances, and in cases mentioned in Section 3-11-103, MCA, the records must be similar to the records now kept in justices' courts. (Section 3-6-302, MCA)
(Note: At a minimum the court shall maintain a docket that details each proceeding or action, as specified in Section 3-5-508, MCA, for civil causes, and as specified in Section 3-10-501, MCA, for cases required to adhere to the standards for justice courts. Also, see CNTY-14 for a list of records to be maintained for justice courts.)

Suggested Audit Procedure:

- Review the court records and determine that they contain at least the minimum information required by statute.

2. Compliance Requirement:

- All fines imposed and collected by a city or municipal court must be paid to the city or town finance officer or treasurer. Although not designated in the statutes, these collections are generally deposited in the city/town general fund. (Sections 46-17-303 (city court) & 46-17-402 (municipal court), MCA).
- Exceptions to the above general distribution rule:
 - a. The court may contract with a private person or entity for the collection of fines, in which case a reasonable fee may be paid to that private person or entity. (Sections 46-17-303 & 46-17-402)
 - a. **Effective October 1, 2005** - Violations of speed limits near schools – 50% of the fine must be distributed as provided in 46-17-402 (see general distribution, above), and 50% must be forwarded to the local authority that adopted the special speed limit. (Section 61-8-726, MCA) (Note: this appears to apply only to municipal court.)

Suggested Audit Procedure:

- Test selected remittances from the city or municipal court to the city/town treasurer to determine that all fines collected were distributed as discussed above.

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

3. Compliance Requirements:

- In courts of original jurisdiction, upon an individual's conviction or forfeiture of bond or bail, there is imposed a charge that is in addition to any fine, court costs, or fees imposed. These amounts are as follows: (a) \$15 for each misdemeanor charge, (b) the greater of \$20 or 10% of the fine levied for each felony charge and (c) an additional \$25 (**effective October 1, 2005, \$50**) for each misdemeanor and felony charge under Title 45, and Sections 61-8-401 and 61-8-406, MCA, which pertain to DUI's. (Section 46-18-236, MCA)
- The charges described above under (a) and (b) above are to be deposited with the city/town finance officer or treasurer, to be used to pay the salaries of the city or town attorney and deputies. (Sections 46-18-236(5) & (6), MCA)
- The charge described above under (c) is to be distributed as follows:
 - a. If the city/town operates or uses a victim and witness advocate program that provides the services specified in Title 40, Chapter 15, and Title 46, Chapter 24, MCA, \$24 of the \$25 (**effective 10/1/2005, \$49 of the \$50**) shall be used for payment of the expenses of that program. (BARS Fund #2917) The other \$1 shall be deposited in the fund that pays the collecting court's administrative costs incurred in the collection of the charge (usually the city/town general fund). (**Note: This \$1 is not subject to allocation under 46-18-251, as discussed in Compliance Requirement No. 5, below.**)
 - b. If the city/town does not operate or use a victim and witness advocate program, \$24 of the \$25 (**effective 10/1/2005, \$49 of the \$50**) collected under (c) above must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund to be used to provide services to crime victims as provided in Title 53, chapter 9, part 1, MCA (BARS Fund No. 7699-2). The other \$1 is distributed as described above. (Section 46-18-236, MCA)

Suggested Audit Procedure:

- Test selected cases to determine that upon conviction or forfeiture of bond or bail, the charges described above are imposed in addition to any other required fine, court cost, or fee, and that it is distributed as described above.

4. Compliance Requirements:

- Court Information Technology Surcharge - In courts of original jurisdiction, a \$10 surcharge that is in addition to any fine, court costs, or fees is imposed:
 - (a) on a defendant in criminal cases upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

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I. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CITY AND MUNICIPAL COURTS - continued:

4. Compliance Requirements - continued:

(b) on the initiating party in civil and probate cases, at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases upon appearance.

This surcharge is to be forwarded to the State (BARS Fund No. 7458) for deposit in the account established under Section 3-5-904, MCA (**Effective June 28, 2005**, for deposit in the State general fund), for state funding of court information technology. (Section 3-1-317, MCA)

- Montana Law Enforcement Academy Surcharge - In courts of limited jurisdiction, a \$10 surcharge that is in addition to any fine, court costs, or fees is imposed on a defendant who is convicted of criminal conduct or who forfeits bond. This surcharge is to be forwarded to the State for deposit in an account in the state special revenue fund to be used by the Department of Justice on behalf of the Montana law enforcement academy. (Section 3-1-318, MCA)

Suggested Audit Procedure:

- Test selected cases to determine that the above two surcharges are collected in the amount, and distributed in the manner, indicated above.

5. Compliance Requirement:

- If a defendant is subject to payment of restitution and any combination of fines, costs, surcharges, etc., 50% of all money collected from the defendant must be first applied to payment of restitution and the balance must be applied to these other payments, in the order listed (i.e., surcharge in 46-18-236 first, then supervisory fees, then costs, then fines.) (Section 46 -18-251, MCA) (**Note: The funds deposited under Section 46-18-236(7)(b) (i.e., the \$1 deposited to the fund that pays the collecting court's administrative costs incurred in the collection of the surcharge discussed in Compliance Requirement No. 3, above) are not subject to this allocation.**)

Suggested Audit Procedure:

- Test selected cases to determine that money collected from a defendant is allocated as indicated above.